

[Submitting Counsel on Signature Page]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

**IN RE JUUL LABS, INC.,
MARKETING, SALES PRACTICES,
AND PRODUCTS LIABILITY
LITIGATION**

Case No. 19-md-02913-WHO

**TRIAL TESTIMONY AND EXHIBITS
FROM THE VIDEOTAPED TESTIMONY
OF JAMES XU PLAYED AT TRIAL**

This Document Relates to:

***San Francisco Unified School District v.
Juul Labs, Inc. et al., Case No. 3:19-cv-
08177***

Plaintiff, by and through its undersigned attorneys, hereby docket the following:

1. **Exhibit 1** is a report of the videotaped testimony of James Xu that was played to the jury on April 28, 2023. The testimony in blue 00:13:38 and light blue 00:01:02 is Plaintiff's affirmative and counter-counter designations.
2. **Exhibit 2**: is a *Joint Stipulation Identifying Trial Exhibits Used In Videotaped Depositions of James Xu Played at Trial* that sets forth all of the Trial Exhibits from the videotaped testimony of James Xu admitted into evidence by the Court.

Respectfully submitted,

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EXHIBIT 1

XU, JAMES SFUSD FINAL_PLAYED 04-28-23

Designation List Report



Xu, James

2021-06-29

Xu, James

2021-06-30

PLF AFFIRMATIVE	00:13:38
DEF AFFIRMATIVE	00:00:12
DEF COUNTER	00:05:43
PLF COUNTER-COUNTER	00:01:02
TOTAL RUN TIME	00:20:34



Documents linked to video:

XU10017

XU10018

XJv9 - XU, JAMES SFUSD FINAL_PLAYED 04-28-23

DESIGNATION	SOURCE	DURATION	ID
14:21 - 14:21	Xu, James 2021-06-29_WIT 14:21 Q. Good morning, Mr. Xu.	00:00:02	XJv9.1
15:21 - 16:03	Xu, James 2021-06-29_WIT 15:21 Could you please tell me what you do 15:22 for a living, Mr. Xu? 15:23 A. I'm a business owner entrepreneur, 15:24 and so right now I spend most of my time managing 15:25 several business. And before it was Avail Vapor 16:01 and then since last year, we split the company 16:02 into multiple entities and but that right now I'm 16:03 still managing those business.	00:00:33	XJv9.2
17:06 - 17:09	Xu, James 2021-06-29_WIT 17:06 Okay. And what is Avail Vapor's -- 17:07 the current Avail Vapor's primary business? 17:08 A. Retail operation electronic 17:09 cigarette.	00:00:12	XJv9.3
29:14 - 30:14	Xu, James 2021-06-29_WIT 29:14 Q. So it was -- explain that process 29:15 for me about when a customer walks into an Avail 29:16 store, they -- they're ID'd before they make a 29:17 purchase? Or when they walk in? I wasn't clear 29:18 on the sequence you were describing. 29:19 A. Okay. Before customer walk in, they 29:20 will see actually sign on the door to post the 29:21 legal age of that time. Right now it's 21, but 29:22 before was actually different age group. 29:23 Q. Right. 29:24 A. Depend on the states. So we will 29:25 have legal age post on the door, and then upon 30:01 entry of our door, our employee is trained to 30:02 immediately ask to see their ID and then that is 30:03 just a visual check. 30:04 Q. Uh-huh. 30:05 A. But when they -- and then if they 30:06 want to sample any of our product, they have to 30:07 join Avail Life, which is a royalty program and 30:08 for fee. At that time, of course, it's become a 30:09 transaction and for a transaction we scan their -- 30:10 their ID.	00:01:31	XJv9.4

XJv9 - XU, JAMES SFUSD FINAL_PLAYED 04-28-23

DESIGNATION	SOURCE	DURATION	ID
	30:11 So if it's a fake ID, most likely		
	30:12 it's not scannable. So that's how we capture all		
	30:13 that information. And then when they're ready to		
	30:14 make a purchase, we scan their ID again.		
50:15 - 50:17	Xu, James 2021-06-29_WIT	00:00:10	XJv9.5
	50:15 Q. How many stores does Avail currently		
	50:16 operate?		
	50:17 A. Currently operate about 56.		
51:08 - 51:13	Xu, James 2021-06-29_WIT	00:00:23	XJv9.6
	51:08 Q. Was Avail at one point the		
	51:09 largest e-cigarette chain in the country?		
	51:10 A. Yes.		
	51:11 Q. Okay. Was that in around 2017?		
	51:12 A. If it's not '17, it will be the more		
	51:13 2018. It would be around that time frame, yes.		
81:18 - 82:01	Xu, James 2021-06-29_WIT	00:00:34	XJv9.7
	81:18 Q. is it fair to say that		
	81:19 Altria approached you because they were interested		
	81:20 in learning about the market and products in the		
	81:21 market of e-cigarettes?		
	81:22 A. Fair to say, yes.		
	81:23 Q. And they wanted your help in		
	81:24 understanding the market and the commercial		
	81:25 performance of different products in that market?		
	82:01 A. Yes.		
82:03 - 82:05	Xu, James 2021-06-29_WIT	00:00:09	XJv9.8
	82:03 THE WITNESS: I will say		
	82:04 that's the -- they through us they have a		
	82:05 window into this new industry.		
100:14 - 100:14	Xu, James 2021-06-29_WIT	00:00:05	XJv9.9
	100:14 Q. Was it your impression that		
100:15 - 100:15	Xu, James 2021-06-29_WIT	00:00:04	XJv9.10
	100:15 demographic data was important to them, to Altria?		
100:17 - 101:18	Xu, James 2021-06-29_WIT	00:01:31	XJv9.11
	100:17 THE WITNESS: That's one of		
	100:18 the question they ask. They ask many		
	100:19 questions.		
	100:20 BY MR. NAFISI:		

XJv9 - XU, JAMES SFUSD FINAL_PLAYED 04-28-23

DESIGNATION	SOURCE	DURATION	ID
	100:21 Q. When you say "they ask many		
	100:22 questions," what -- could you -- could you explain		
	100:23 that? Is it --		
	100:24 A. Again, I have to ask -- go back to		
	100:25 many of the report they ask us to run and all that		
	101:01 and, you know, I believe they -- I mean, they --		
	101:02 they are very good at data mining, and they		
	101:03 definitely don't only just look at the		
	101:04 demographic. They look at every aspect of the		
	101:05 data.		
	101:06 And then, you know, I gave my		
	101:07 employee basically the green light to say, hey, if		
	101:08 Altria ask you for information, you don't have to		
	101:09 run to me every single time and ask for		
	101:10 permission.		
	101:11 So, you know, I basically introduced		
	101:12 David Wise, Steve Schroder. Say, hey, this		
	101:13 particular person, directly go to them when you		
	101:14 have question. So they may have access directly		
	101:15 to the data. They may ask us to run report, and I		
	101:16 don't see those report personally. Because --		
	101:17 Q. Who was --		
	101:18 A. -- it would not flow to me.		
157:24 - 158:05	Xu, James 2021-06-29_WIT	00:00:17	XJv9.12
	157:24 When Altria invested in Avail in		
	157:25 2015, that investment was not made public,		
	158:01 correct?		
	158:02 A. No.		
	158:03 Q. And in September 29, 2017, it was		
	158:04 still not public, right?		
	158:05 A. No.		
208:22 - 208:24	Xu, James 2021-06-29_WIT	00:00:09	XJv9.13
	208:22 Q. Is it your testimony then that the		
	208:23 decision to carry JUUL products at Avail stores		
	208:24 had nothing to do with Altria?		
209:01 - 209:02	Xu, James 2021-06-29_WIT	00:00:02	XJv9.14
	209:01 THE WITNESS: Yes, that's		
	209:02 correct.		
213:01 - 213:03	Xu, James 2021-06-29_WIT	00:00:06	XJv9.15

XJv9 - XU, JAMES SFUSD FINAL_PLAYED 04-28-23

DESIGNATION	SOURCE	DURATION	ID
	213:01 You mentioned a few moments ago that		XJv9.15
	213:02 Altria requested some data from you relating to		
	213:03 JUUL?		
213:06 - 213:06	Xu, James 2021-06-29_WIT	00:00:01	XJv9.16
	213:06 THE WITNESS: Yes.		
213:08 - 213:24	Xu, James 2021-06-29_WIT	00:01:34	XJv9.17
	213:08 Q. When was that request		
	213:09 made?		
	213:10 A. When we start carrying JUUL		
	213:11 product -- again, that's November 2017 -- Altria		
	213:12 representative were very curious about our overall		
	213:13 sale.		
	213:14 of their what's selling and what's the percentage		
	213:15 of our overall sale is JUUL.		
	213:16 So, many conversation happen at the		
	213:17 end of the year. They just -- I would say they're		
	213:18 checking quite often to see overall how JUUL is		
	213:19 doing, and then they also made several trips to		
	213:20 buy large quantity of the JUUL product from us.		
	213:21 And then at the end of 2017 or the		
	213:22 very beginning of 2018, David Wise reach out to me		
	213:23 and ask me to bring some data analyst to go to		
	213:24 their Altria headquarter to run reports for them.		
214:05 - 214:09	Xu, James 2021-06-29_WIT	00:00:22	XJv9.18
	214:05 Q. Do you remember the date when David		
	214:06 Wise contacted you?		
	214:07 A. I don't remember exact date, no.		
	214:08 It's definitely the beginning time of 2018, very		
	214:09 beginning.		
215:21 - 215:25	Xu, James 2021-06-29_WIT	00:00:14	XJv9.19
	215:21 Q. You mentioned a moment ago that		
	215:22 towards the end of the year there was significant		
	215:23 interest from Altria in JUUL's performance and		
	215:24 Avail.		
	215:25 A. Yes.		
216:03 - 216:04	Xu, James 2021-06-29_WIT	00:00:06	XJv9.20
	216:03 Q. What did you understand the source		
	216:04 of that interest in JUUL to be?		
216:09 - 216:22	Xu, James 2021-06-29_WIT	00:00:48	XJv9.21

XJv9 - XU, JAMES SFUSD FINAL_PLAYED 04-28-23

DESIGNATION	SOURCE	DURATION	ID
	216:09 THE WITNESS: So, again, at 216:10 that time, JUUL is the talk of the 216:11 industry and everywhere you turn around, 216:12 you hear JUUL is completely sold out. 216:13 Whoever has it able to sell through so 216:14 quickly. Our store is bombarded by phone 216:15 call. 216:16 So anybody who is in that 216:17 field absolutely aware of -- of what's 216:18 JUUL, how JUUL is, you know, doing. And, 216:19 of course, everybody is very curious what 216:20 is about this product why they are 216:21 selling so hot. So that's I believe it 216:22 is on everyone's mind at that point.		XJv9.21
217:09 - 217:12	Xu, James 2021-06-29_WIT 217:09 Q. Was it typical for David Wise to or 217:10 anyone from Altria to call you and ask you to 217:11 bring a laptop full of transaction data to the 217:12 headquarters?	00:00:17	XJv9.22
217:15 - 217:15	Xu, James 2021-06-29_WIT 217:15 THE WITNESS: It's unusual.	00:00:02	XJv9.23
218:14 - 218:15	Xu, James 2021-06-29_WIT 218:14 Q. Did you attend that meeting alone? 218:15 A. No.	00:00:05	XJv9.24
220:13 - 220:17	Xu, James 2021-06-29_WIT 220:13 Q. Once they entered, once everyone was 220:14 in the room -- 220:15 A. Uh-huh. 220:16 Q. -- please describe what happened, 220:17 how the meeting began.	00:00:10	XJv9.25
220:19 - 221:10	Xu, James 2021-06-29_WIT 220:19 THE WITNESS: The meeting 220:20 was, of course, start with chitchatting 220:21 and chitchatting for a while, but then 220:22 fairly quickly we turn the floor to 220:23 Bobby. 220:24 And I believe Bobby ask for 220:25 what's the password, WiFi password, so he 221:01 can link to our live database real-time	00:00:58	XJv9.26


XJv9 - XU, JAMES SFUSD FINAL_PLAYED 04-28-23

DESIGNATION	SOURCE	DURATION	ID
	221:02 and perform the data query that Altria is		
	221:03 going to ask.		
	221:04 BY MR. NAFISI:		
	221:05 Q. So Bobby was querying data that was		
	221:06 on the Life servers?		
	221:07 A. Yes. Maybe our backup server		
	221:08 because I believe and I'm not -- I believe we have		
	221:09 a mirror copy of the data because you don't want		
	221:10 to mess with real transaction.		
222:11 - 222:16	Xu, James 2021-06-29_WIT	00:00:29	XJv9.27
	222:11 Q. what kinds of		
	222:12 questions were they asking?		
	222:13 A. What's the gender? Which item sell		
	222:14 the most? Lots of data was run at that time and		
	222:15 because, again, it's Life data. So whatever they		
	222:16 asked, we run. Bobby run it.		
222:17 - 222:23	Xu, James 2021-06-29_WIT	00:00:31	XJv9.28
	222:17 So many different way how to look at		
	222:18 the different way you look at the JUUL data, and		
	222:19 we were basically look at it. And I believe we		
	222:20 also look at comparison data of, like, BO to		
	222:21 compare. Because, again, like I previously		
	222:22 mention, we carry BO for long, long, much longer		
	222:23 time.		
224:23 - 225:02	Xu, James 2021-06-29_WIT	00:00:28	XJv9.29
	224:23 Q. Do you remember how the age mix		
	224:24 compared to Avail's average?		
	224:25 A. That's -- at that time, certain		
	225:01 state is still age 18, and I believe majority of		
	225:02 the user is below the age 25.		
225:03 - 225:04	Xu, James 2021-06-29_WIT	00:00:06	XJv9.30
	225:03 Q. Do you also believe that the		
	225:04 majority of users were under the age of 20?		
225:07 - 225:08	Xu, James 2021-06-29_WIT	00:00:02	XJv9.31
	225:07 THE WITNESS: It's a large		
	225:08 portion of that.		
225:09 - 225:12	Xu, James 2021-06-29_WIT	00:00:10	XJv9.32
	225:09 BY MR. NAFISI:		
	225:10 Q. Was there a reaction to seeing this		

XJv9 - XU, JAMES SFUSD FINAL_PLAYED 04-28-23

DESIGNATION	SOURCE	DURATION	ID
	225:11 age data by Altria personnel, by Wise, Schroder, 225:12 or Underwood?		
225:14 - 225:15	Xu, James 2021-06-29_WIT	00:00:06	XJv9.33
	225:14 THE WITNESS: I believe so. 225:15 It was a "holy shit" moment.		
227:13 - 227:22	Xu, James 2021-06-29_WIT	00:00:57	XJv9.34
	227:13 Q. Why did the meeting end, if 227:14 you recall? 227:15 A. I remember the meeting end when we 227:16 showed age demographic and that was the strong 227:17 reaction, and then we further run the report like 227:18 compared to BO. And the BO's age is still young, 227:19 but not nearly as young as JUUL. And then we run, 227:20 I guess, Avail data and Avail data more skew much 227:21 further to the older age, and I believe that's the 227:22 moment just like that's the end of the meeting.		
247:02 - 247:09	Xu, James 2021-06-30_WIT	00:00:29	XJv9.35
	247:02 Q. Do you recall yesterday when we 247:03 wrapped up we were discussing a meeting that took 247:04 place at Altria headquarters on January -- at some 247:05 point in January 2018? 247:06 A. Yes. 247:07 Q. Do you know if the date of that 247:08 meeting was January 3, 2018? 247:09 A. I will say it's around that time.		
248:17 - 248:20	Xu, James 2021-06-30_WIT	00:00:17	XJv9.36
	248:17 Q. Prior to this January 3, 2018 248:18 meeting, had you ever visited Altria's 248:19 headquarters for a conference? 248:20 A. Yes.		
254:22 - 254:24	Xu, James 2021-06-30_WIT	00:00:08	XJv9.37
	254:22 Q. Would you recognize K.C. Crosthwaite 254:23 if I showed you his face? 254:24 A. Yes.		
255:01 - 255:03	Xu, James 2021-06-30_WIT	00:00:06	XJv9.38
	255:01 Do you know what K.C. Crosthwaite's 255:02 role was at the time of this, or do you have a 255:03 sense of it?		




XJv9 - XU, JAMES SFUSD FINAL_PLAYED 04-28-23

DESIGNATION	SOURCE	DURATION	ID
255:05 - 255:17	Xu, James 2021-06-30_WIT 255:05 THE WITNESS: We first met 255:06 K.C. when he just came back in Europe, 255:07 and then he became the head of the 255:08 strategy. I don't remember the exact 255:09 time period. 255:10 Again, the strategy, the head 255:11 of strategy changed so often. K.C., if I 255:12 remember correctly, that would put him in 255:13 the time frame of 2016 because it's the 255:14 year after our investment. 255:15 So I will say 2016 that's the 255:16 first time we met him, and he came to 255:17 Avail after he took the job.	00:01:11	XJv9.39
354:18 - 354:19	Xu, James 2021-06-30_WIT 354:18 Exhibit 354:19 No.	00:00:01	XJv9.40
354:20 - 354:22	Xu, James 2021-06-30_WIT 354:20 10017. 354:21 (Document marked for 354:22 identification as Exhibit 10017.)	00:00:02	XJv9.41
355:04 - 355:06  XU10017.1.1	Xu, James 2021-06-30_WIT 355:04 Q. Is this an e-mail that you sent to 355:05 Russell Rogers and David Wise on April 1, 2019? 355:06 A. Yes.	00:00:11	XJv9.42
361:14 - 361:22  XU10017.1.2	Xu, James 2021-06-30_WIT 361:14 Q. And the following sentence reads: 361:15 "Without knowledge of your actions 361:16 outside of the best interests of Avail, we 361:17 contributed Avail proprietary JUUL usage and 361:18 demographic data that you requested in confidence 361:19 and which highlighted JUUL's concern over youth 361:20 appeal and marketing philosophies." 361:21 Does -- 361:22 A. Yes.	00:00:25	XJv9.43
362:05 - 362:07  Clear	Xu, James 2021-06-30_WIT 362:05 Q. Are there any examples of Altria 362:06 requesting demographic data that we have -- that 362:07 you are aware of that we have not discussed?	00:00:18	XJv9.44

XJv9 - XU, JAMES SFUSD FINAL_PLAYED 04-28-23

DESIGNATION	SOURCE	DURATION	ID
362:10 - 362:23	Xu, James 2021-06-30_WIT	00:00:57	XJv9.45
	362:10 THE WITNESS: Again, only		
	362:11 thing I aware of was the meeting that		
	362:12 they request January 2018, and then being		
	362:13 with K.C. that I voluntarily or actually		
	362:14 I brought the data to K.C.		
	362:15 Besides that two occasion, I		
	362:16 know we have regular data feed, but I was		
	362:17 not involved in those reporting. But I		
	362:18 do know we have regular reporting with		
	362:19 them, and that will be between our Avail		
	362:20 staff and then directly with Altria's		
	362:21 staff because we establish those --		
	362:22 those, you know, this channel early in		
	362:23 the game.		
376:12 - 376:12	Xu, James 2021-06-30_WIT	00:00:02	XJv9.46
	376:12 thank you very much for your time		
391:20 - 392:10	Xu, James 2021-06-30_WIT	00:00:39	XJv9.47
	391:20 Q. Okay. So in 2015, it was -- the		
	391:21 investment agreement that you entered into Altria		
	391:22 invested 9.7 million for a 15 percent interest in		
	391:23 Avail; is that right?		
	391:24 A. That's correct.		
	391:25 Q. And because it was only 15 percent,		
	392:01 Altria did not have control over Avail at that		
	392:02 time, right?		
	392:03 A. No.		
	392:04 Q. And you retained -- yourself		
	392:05 retained more than 50 percent ownership, correct?		
	392:06 A. Correct.		
	392:07 Q. So as the majority shareholder and		
	392:08 CEO, you retained control over Avail even after		
	392:09 Altria's investment, right?		
	392:10 A. Yes.		
394:22 - 395:04	Xu, James 2021-06-30_WIT	00:00:18	XJv9.48
	394:22 (Document marked for		
	394:23 identification as Exhibit 10018.)		
	394:24 BY MS. O'CONNOR:		
 XU10018.1.1	394:25 Q. Mr. Xu, is this a draft -- a copy of		
	395:01 the investment agreement between Altria and Avail		

XJv9 - XU, JAMES SFUSD FINAL_PLAYED 04-28-23

DESIGNATION	SOURCE	DURATION	ID
	395:02 that's dated December 7, 2015?		
	395:03 A. Yes.		
	395:04 Q. And if we could go to Bates number		
395:05 - 395:08	Xu, James 2021-06-30_WIT	00:00:07	XJv9.49
 XU10018.28.1	395:05 ending in 750. And you see this is Schedule		
 XU10018.28.2	395:06 3.01(i).		
	395:07 Do you see that, Mr. Xu?		
	395:08 A. (Reviews document.)		
395:09 - 396:16	Xu, James 2021-06-30_WIT	00:01:09	XJv9.50
	395:09 Yes. Okay.		
 XU10018.28.3	395:10 Q. And Section 1 says:		
	395:11 "The Company's products shall not be		
	395:12 intended for youth or those under age and will not		
	395:13 be marketed as such."		
	395:14 Correct?		
	395:15 A. Yes.		
	395:16 Q. And then it says:		
 XU10018.28.4	395:17 "The company will not permit its		
	395:18 products to be sold to anyone younger than 18 or		
	395:19 the legal smoking age in the applicable state or		
	395:20 locality."		
	395:21 Correct?		
	395:22 A. Yes.		
 XU10018.28.5	395:23 Q. And "Identification will be required		
	395:24 for anyone appearing under the age of 26," right?		
	395:25 A. Which we went beyond that. We ID		
	396:01 anybody.		
	396:02 Q. Yeah. And then the last sentence		
	396:03 says:		
 XU10018.28.6	396:04 "The Company will not make any		
	396:05 statement or claim or use imagery designed to		
	396:06 appeal to children or minors, or that could be		
	396:07 construed as an attempt to attract or appeal to		
	396:08 children or minors."		
	396:09 Correct?		
	396:10 A. Yes.		
	396:11 Q. And this provision was consistent		
	396:12 with how you were doing business at the time,		
	396:13 right?		
	396:14 A. And even today. That's --		

XJv9 - XU, JAMES SFUSD FINAL_PLAYED 04-28-23

DESIGNATION	SOURCE	DURATION	ID
	396:15 Q. Yeah.		
	396:16 A. That's we try our best.		
410:22 - 411:01  Clear	Xu, James 2021-06-30_WIT 410:22 Q. Now, you mentioned, Mr. Xu, that 410:23 your primary contacts at Altria were Steve 410:24 Schroder and Steve Schroder primarily and also 410:25 David Wise, right? 411:01 A. That's correct.	00:00:17	XJv9.51
411:15 - 412:05	Xu, James 2021-06-30_WIT 411:15 I meant that you know them 411:16 well through your business relationship, correct? 411:17 A. Yeah. 411:18 Q. And you met with them many, many 411:19 times over the course of your three-year 411:20 relationship with AVI? 411:21 A. Yes. Yes. 411:22 Q. At least once a month and sometimes 411:23 more often? 411:24 A. At least once a month. That's an 411:25 estimate, yes. 412:01 Q. And the meetings -- in the meetings, 412:02 you would discuss all sorts of topics, right? You 412:03 would discuss how your business was doing, 412:04 correct? 412:05 A. Yes.	00:00:33	XJv9.52
412:21 - 412:24	Xu, James 2021-06-30_WIT 412:21 Q. And prior to Altria's investment in 412:22 JUUL, you also worked collaboratively with lots of 412:23 other people at Altria; is that fair? 412:24 A. Fair.	00:00:12	XJv9.53

PLF AFFIRMATIVE	00:13:38
DEF AFFIRMATIVE	00:00:12
DEF COUNTER	00:05:43
PLF COUNTER-COUNTER	00:01:02
TOTAL RUN TIME	00:20:34



Documents linked to video:

XU10017

XU10018

EXHIBIT 2

[Submitting Counsel on Signature Page]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

**IN RE JUUL LABS, INC.,
MARKETING, SALES PRACTICES,
AND PRODUCTS LIABILITY
LITIGATION**

Case No. 19-md-02913-WHO

**JOINT STIPULATION IDENTIFYING
TRIAL EXHIBITS USED IN THE
VIDEOTAPED DEPOSITION OF JAMES XU
PLAYED AT TRIAL**

This Document Relates to:

***San Francisco Unified School District v.
Juul Labs, Inc. et al., Case No. 3:19-cv-
08177***

WHEREAS, Plaintiff called James Xu, whose videotaped deposition was played to the jury.

WHEREAS, the exhibit numbers in the videotaped deposition are different from the Trial Exhibit numbers.

WHEREAS, to most efficiently clarify the record, the parties, by and through their undersigned counsel, hereby stipulate and agree that the chart below accurately reflects the deposition exhibits introduced during the videotaped testimony of James Xu and the corresponding Trial Exhibit Numbers¹:

¹ The parties reserve all objections regarding these exhibits.

**JOINT STIPULATION IDENTIFYING TRIAL
EXHIBITS USED IN VIDEOTAPED
DEPOSITION**

Respectfully submitted,

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